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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/462,755 01/14/00 SHIRAKI

K MIT-B895

EXAMINER

IM22/0703

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ART UNIT

PAPER NUMBER

1774

DATE MAILED:

07/03/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/462,755

Applicant(s)

SHIRAKI ET AL

Examiner

Jill Gray

Art Unit

1774



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1) ☐ Responsive to communication(s) filed on \_\_\_\_\_

2a) ☐ This action is FINAL.

2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

4) ☒ Claim(s) 1-74 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 1-74 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☒ All b) ☐ Some\* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_

3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

15) ☐ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 3 & 4

20) ☐ Other:

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## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Claim Objections***

2. Claims 1-74 are objected to because of the following informalities: The claims are replete with grammatical errors, too numerous to list singly. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-74 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 7 and 14-15 are indefinite because these claims do not provide a positive recitation of the inorganic powder being bound to the fiber by the organic binder.

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Claim 2 is indefinite because it contains improper Markush language for each group. The suggested language is "selected from the group consisting of".

Claims 3 and 8 are vague and indefinite. It is not clear as to whether the organic binder is the organic binder of B, or different.

Claim 11 is indefinite because this claim uses improper Markush language. Also, this claim does not provide a clear, positive recitation of the powder being bound to the reinforcing fiber using the organic binder. Also the term "compound" is indefinite because it implies a chemical compound, not the form, structure or configuration of the reinforcing fibers.

Claim 12 is indefinite because it is not clear as to what the laminated or assembled refers to. Also, it is not clear as to what "it" refers to (line 4). It is not clear as to whether this language refers to the mold, laminated or assembled structure, or the hydraulic compound.

Claim 13 is indefinite because it is not clear as what is meant by reinforcing material "takes" the form of short fibers. This language is not a positive recitation of the reinforcing material being in short fiber form or being short fibers.

Claim 18 is indefinite because the language of "and has a property to let hydration/hardening reaction proceed" does not clearly define the coated reinforcing fiber properties. It is not clear as how this fibers "lets" the reaction proceed.

Claim 19 is indefinite for the reasons set forth in claim 18, and also because the process step of "causing...to contain water" is not clearly defined. How are the dispersion medium,

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dissolving agent and other admixtures caused to contain water? Also, it is not clear as to what is meant by “sequently”.

Claim 20 is indefinite because there is no clear antecedent basis for “setting retarding means”.

Claim 21 is indefinite because there is no clear antecedent basis for “setting retarding effector”. Also, this claim uses improper Markush language. The suggested language is “selected from the group consisting of”.

Claim 22 is definite for reasons stated above in claim 21.

Claim 23 is vague, indefinite and confusing. The metes and bounds for which patent protection is being sought is not clear. Also, the term “setting retarding means” lacks the proper antecedent basis. The process step “to cause an setting retarder to be present” is not clearly defined. This claim contains improper Markush language, and the limitations regarding whether the setting retarder effector is an organic solvent or those from the Markush group are not clearly defined.

Claim 24 is indefinite because this claim contain improper Markush language. Also, the process step of “taking water” appears to be incomplete and this claim does not provide a clear positive recitation of the inorganic powder being bound to the reinforcing fiber using the organic binder.

Claim 25 is indefinite because this claim contains improper Markush language. Also, the term “means” lacks the proper antecedent basis.

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Claim 27 is indefinite because it contains improper Markush language.

Claim 28 is indefinite because it contains improper Markush language. Also, the process step of "adding" is not clear because it is not clear what component is being added. In addition, the language "and has a property to let hydration/hardening reaction proceed" does not clearly define the coated reinforcing fiber properties.

Claim 29 is indefinite for the reasons stated in claim 28.

Claim 30 is indefinite for the reasons stated in claim 28.

Claim 32 is indefinite because is contains improper Markush language.

Claim 35 is indefinite because the process steps of "pulled side by side" and "spread like a sheet" are not clear.

Claim 38 is indefinite because it contains improper Markush language.

Claim 40 is indefinite because it contains improper Markush language.

Claim 41 is indefinite for the reasons stated in claim 40 above.

Claim 42 is indefinite because the compositional makeup - content, is not clear.

Claim 44 is indefinite for the reasons stated in claim 40.

Claim 47 is indefinite for the reasons set forth in claim 41 above. Also the language of "is based on" is indefinite because the metes and bounds for which patent protection is being sought cannot be readily ascertained.

Claim 49 is indefinite because the process step of "causing" is ambiguous and not clearly defined.

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Claim 50 is indefinite because it contains improper Markush language.

Claim 51 is indefinite for the reasons set forth above in claim 50.

Claim 56 is indefinite for the reasons set forth in claim 50 above.

Claim 57 is indefinite because the process step of "causing" is ambiguous and not clearly defined.

Claim 58 is indefinite because the process step of "are caused to harden together" is not clearly defined.

Claim 64 is indefinite because the compositional makeup is not clearly defined.

Claim 66 is indefinite because it contains improper Markush language.

Claim 70 is indefinite for the reasons set forth in claim 66.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent No. 2-267143.

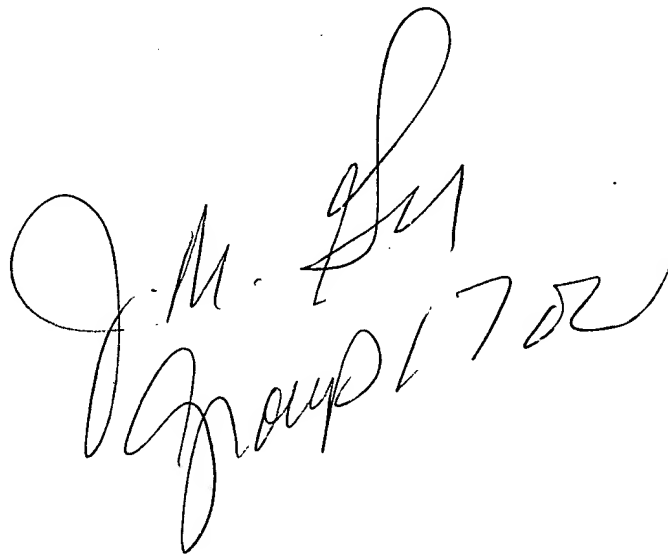
The Japanese patent teaches a fiber reinforced cement product, said product produced by the method comprising coating the surfaces of reinforcing fibers with an inorganic powder through

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the use of a binder, wherein the reinforcing fibers are mixed with cement, an aggregated and water, and subsequently cured. In addition, the prior art teaches that the reinforcing fiber can be carbon fiber present within an amount contemplated by applicants, processing steps similar to those set forth by applicants. Accordingly, the prior art teachings of the Japanese patent would have rendered obvious the invention as presently claimed in claims 1-74.

No claims are allowed.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. M. Gray whose telephone number is (703) 308-2381.

A handwritten signature in black ink, appearing to read "J. M. Gray" with a stylized flourish below it.

jmg

July 2, 2001